

LESSONS FROM RECENT BSA/AML ENFORCEMENT ACTIONS

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Headnotes

- Level of enforcement activity notable – a continued area of emphasis in a de-regulatory climate
- Remember these are allegations – and history is written by the victors (*i.e.*, the Government)
- Consider relationship between sound BSA/AML compliance and consumer protection – as activist State AGs increase their enforcement of consumer protection laws

Headnotes (cont'd)

- In reading the various orders:
 - The sweep of the Government's power under the BSA is apparent
 - What is not always apparent is that the institutions affected are being abused by the bad actors: a blurring of the institution and its personnel with the bad actor
- Comptroller of the Currency says BSA enforcement has evolved into “a series of gotchas”
 - We agree – but suggest under the current BSA regime that avoiding the negative narrative is worthwhile

Common Themes

- “Tone at the Top”*: Lack of executive buy-in to AML compliance, resulting in lack of resources allocated to AML program, insufficient staffing and ineffective internal controls
- Failure to Follow Through: Consistent failure to remedy identified failures in AML program and to investigate and act on known or suspected criminal activity by customers, often involving high-risk foreign jurisdictions

Common Themes

- Growth Outstrips Compliance: Failure of AML infrastructure to keep pace with growth, resulting in systemic deficiencies and gaps in internal controls
- Third Parties: Inadequate oversight over third-party relationships, including:
 - Agent locations (money transfer)
 - MSBs (large and small banks)
 - Correspondent accounts (banks and broker - dealer)

[Large Money Transfer Company]



Key Allegations

Agent locations complicit in fraud and money laundering, company failed to detect and report suspicious activity, and in some cases facilitated such activity

Click [here](#) to view the Assessment of Civil Money Penalty



Key Allegations

Inadequate initial and ongoing due diligence over MSB and correspondent banking relationships, resulting in multiple failures of AML program requirements



Click [here](#) to view the Assessment of Civil Money Penalty
Click [here](#) to view the Consent order for a Civil Money Penalty

Key Allegations

OCC consent order requiring assessment and overhaul of bank's AML compliance infrastructure, policies and procedures



Click [here](#) to view the Consent Order

[Virtual Currency Exchange and Principal]

Key Allegations

Virtual currency exchange effectively laundered bitcoin on behalf of criminals around the world; wholesale failure to comply with BSA because not registered MSB



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Key Allegations

Inadequate customer risk profiling, suspicious activity monitoring and reporting procedures, resulting in failure to detect and report suspicious activity

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Key Allegations

Noncompliance with 2012 OCC consent order finding violations of BSA compliance program, SAR filing and correspondent banking requirements



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[U.S. Bank Subsidiary of Foreign Bank]

Key Allegations

Inadequate transaction monitoring and reporting; failure to develop adequate CDD and EDD processes, insufficient BSA staff and training; failure to cooperate with law enforcement



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[U.S. Branch of Foreign Bank]

Key Allegations

Inadequate system of internal controls;
systemic deficiencies in transaction
monitoring, SAR filing, CDD, EDD and
customer risk rating processes



Click [here](#) to view the Consent Order for a Civil
Money Penalty

[Large Domestic Bank]

Key Allegations

Organizational failure to adequately fund and support AML program, resulting in systemic deficiencies in nearly all aspects of AML compliance

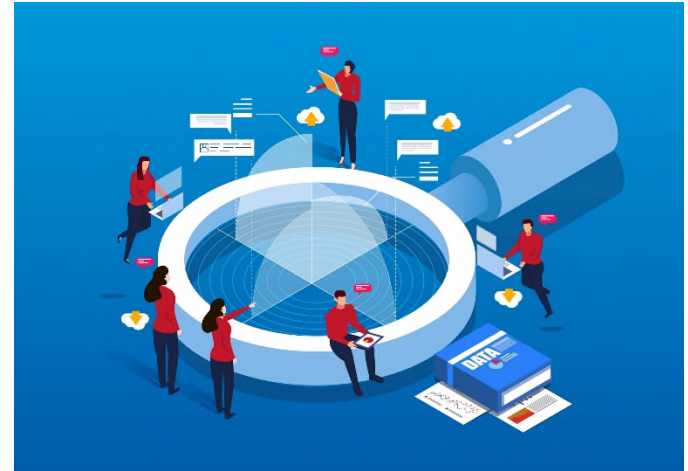


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[Large Domestic Bank]

Key Allegations

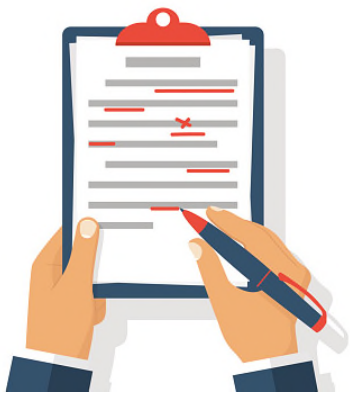
Failures in risk assessment and risk management at enterprise level; systemic deficiencies in AML compliance for RDC and correspondent banking services; failure to identify suspicious transactions and file SARS



Click [here](#) to view the Consent Order

[Large Broker – Dealer]

Key Allegations



Failure to adequately monitor accounts and transactions for red flags; noncompliance with due diligence requirements applicable to foreign correspondent accounts

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THANK YOU!



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